

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6226

BILL NUMBER: HB 1212

NOTE PREPARED: Mar 2, 2006

BILL AMENDED: Mar 1, 2006

SUBJECT: Soil Conservation, Drainage Assessments, and Sanitation Districts.

FIRST AUTHOR: Rep. Dodge

FIRST SPONSOR: Sen. Ford

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Drainage:* This bill provides that the state is not exempt from drainage assessments and is not entitled to a refund of a drainage assessment paid before January 1, 2006.

The bill makes the following changes for a Department of Public Sanitation in a sanitation district (district) that contains at least one city having a population of less than 100,000 and at least one town:

- (1) Makes the department an executive department of each municipality in the district.
- (2) Allows a district to perform certain functions in the name of any municipality in the district or in the name of the district.
- (3) Provides that fees related to property that is subject to full taxation do not take effect until the fees are approved by the legislative body of each municipality in the district or established by the Utility Regulatory Commission.

The bill allows an excluded city or town to withdraw from the Marion County storm water management district if the municipal legislative body adopts an ordinance withdrawing the municipality from the district.

The bill also requires certain notices to be provided as part of the withdrawal process. It provides that if there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district before the municipality's withdrawal.

This bill provides that a withdrawing municipality is entitled to receive the following:

(1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property tax payers within the municipality, to the extent the property taxes are not necessary to pay the municipality's share of outstanding indebtedness.

(2) The total amount of storm water user fees collected from the lots and parcels in the municipality. The bill requires these payments to be deposited by the municipality in a dedicated fund and used only for purposes of storm water management in the municipality.

Soil Conservation: The bill establishes water quality protection as a legislative policy. It makes changes to the membership of the Soil Conservation Board and the advisory members. It requires the board to conduct a conservation needs inventory and hold meetings throughout the state. The bill allows a waiver of the ten acres of land requirement to be waived for elected soil and water conservation district supervisors. It removes the requirement that the nominees for elected supervisors must exceed the vacancies. The bill allows the board to appoint associate supervisors for soil and water conservation districts. It adds information that must be included in annual reports. It requires the Department of Agriculture to implement a geographic information system for each county. The bill also allows the Clean Water Indiana program to provide financial assistance to soil and water conservation districts. It also makes technical corrections.

Effective Date: (Amended) January 1, 2006 (retroactive); Upon Passage; July 1, 2006.

Explanation of State Expenditures: *Drainage--IURC and OUCC Funding:* The provisions in this bill related to sanitation districts could potentially increase the administrative cost and workload of the Indiana Utility Regulatory Commission (IURC). It is presumed that these provisions can be implemented within the existing level of resources available to the IURC.

The operating budgets of the IURC and the OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2005, fees from the utilities and fines generated approximately \$11.7 M.

Drainage: The bill provides that the state is not exempt from drainage assessments. Consequently, the state would continue to pay the assessments. It is possible that the bill could result in additional payments that the state would need to make for drainage assessments for which the state is not currently being assessed. Total drainage assessments for the Indiana Department of Transportation (INDOT) and the Department of Natural Resources (DNR) equaled \$56,834 in 2005. The amount of payments for which the state might be liable is not known at this time.

Background Information: The DNR and INDOT are currently paying drainage assessments. (Information on drainage payments by other state entities will be provided if they become available.)

DNR Drainage Payments. The DNR Division of Fish and Wildlife paid \$12,766 in 2005 for drainage assessments. The assessment was paid to several counties' assessors. The largest assessment of \$3,263 was paid to Noble County. DNR paid Newton County an assessment of \$1,338 and Tipton County an assessment of \$1,035.

The DNR Division of Parks and Reservoirs paid \$12,916 in 2005 for drainage assessments. The assessment

was paid primarily to Noble County.

The DNR Division of Forestry reported a drainage assessment payment of \$37 for 2005.

The Division of Nature Preserves reported a drainage assessment payment of \$432 for 2005.

The total drainage assessment paid by DNR in 2005 equaled \$26,153.

INDOT Drainage Payments. INDOT drainage payments are listed in the table below.

INDOT Storm Water Runoff Assessment Fees		
	Monthly Rate	Annual Rate
Crawfordsville District		
No charges	\$ -	\$ -
Fort Wayne District		
New Haven	\$ 257.81	\$ 3,093.72
Fort Wayne	\$ 430.40	\$ 5,164.80
Marion	\$ 45.00	\$ 540.00
Angola	\$ 18.00	\$ 216.00
Wabash	\$ 73.47	\$ 881.64
Greenfield District		
Greenfield Utilities	\$ 750.00	\$ 9,000.00
Anderson Utilities	\$ 217.00	\$ 2,604.00
Shelbyville Utilities	\$ 168.00	\$ 2,016.00
LaPorte District		
No Charges	\$ -	\$ -
Seymour District		
Clarksville Wastewater	\$ 354.00	\$ 4,248.00
North Vernon Water Dept.	\$ 10.00	\$ 120.00
Vincennes District		
Chandler Utilities	\$ 4.00	\$ 48.00
Chandler Utilities	\$ 4.00	\$ 48.00
Chandler Utilities	\$ 225.12	\$2,701.44
Totals	\$2,556.80	\$30,681.60

(Revised) *Soil Conservation*. Under existing law, the Soil Conservation Board consists of nine members, six of whom are appointed. Appointed members are entitled to reimbursement for travel, lodging, meals, other expenses, and per diem. Expenses for the Board during 2005 equaled about \$12,000. The Board met 10 times in 2005.

Under the bill, the Board will consist of seven members, all of whom are appointed and would receive per diem and reimbursement for traveling expenses. Because the bill increases the number of members on the Board who will receive per diem and reimbursement for travel, expenses will increase by an estimated \$2,000.

Under the proposal, the Governor may also appoint advisory members to the Board upon the recommendation of the Board. This provision will have no fiscal impact.

Background. The director of the Division of Soil Conservation is the secretary of the Board. The Board relies on the Division of Soil Conservation in the Indiana State Department of Agriculture (ISDA) to provide staff assistance. The Board provides guidance to and coordination among the 92 soil and water conservation districts (SWCDs). The Board also makes appointments of SWCD supervisors, makes decisions on allocation of state-appropriated funds to SWCDs, and assists SWCD supervisors in carrying out their responsibilities. The Board also secures the assistance of federal and state agencies for the SWCDs.

(Revised) *Relocation of the Board*. The bill relocates the Board to the ISDA. This provision will have no impact because the Board is currently located in the ISDA.

(Revised) *Inventory of Conservation Needs*. In addition to its other duties, the proposal requires the Board to conduct an inventory of conservation needs for planning purposes and to inform the General Assembly. The Board will be able to accomplish this task given its existing resources. The Board must also hold meetings in locations throughout Indiana. This provision could affect travel expenditures; however, the overall impact is not expected to be significant.

(Revised) *Associate Supervisors*. The Board may appoint associate supervisors to assist in performing duties in each district. Associate supervisors may be reimbursed for approved expenses but are not entitled to per diem. This provision will not have a significant fiscal impact.

(Revised) *Annual Report*. The bill provides that the ISDA must prepare an annual report of the Division of Soil Conservation's expenditures and accomplishments that contains a proposed business plan. Implementation of this provision can be accomplished with existing resources.

(Revised) *Geographic Information Systems (GIS)*. The bill provides that the Department of Agriculture (IDOA) must use money appropriated by the General Assembly to implement and supplement a program of modern soil surveys and geographic information systems (GIS) for each county as an essential tool in land conservation. Currently, the ISDA is just required to provide the surveys. This provision will result in no significant fiscal impact.

(Revised) *Training Provided by the Division of Soil Conservation*. The bill adds conservation district supervisors and staff to the list of individuals to whom the Division must provide professional assistance. The bill also provides that the Division must provide professional assistance to districts in conservation needs assessments, program development, and program evaluation. The Division will be able to accomplish these tasks given the level of its existing budget.

(Revised) *Clean Water Indiana (CWI)*. The bill includes SWCDs in the list of entities that can receive funding from the CWI program. The districts are in addition to land occupiers and conservation groups. This provision conforms with current practice.

(Revised) *Clean Water Indiana Fund*. The bill provides that in addition to other uses, money in the fund may be used for the implementation of GIS or similar technology. This provision will have no fiscal impact because it does not affect total funding.

Background. The 2005 annual funding from Cigarette Tax revenues that the Board allocated equaled approximately \$3.7 M. In July 2005, the Board allocated \$1.8 M for regional technical assistance and regional staff. The Board allocated \$1.9 M to SWCD support. Of this \$1.9 M, \$920,000 was the SWCD match; \$600,000 went to the federal Conservation Reserve Enhancement Program (CREP); and \$380,000 went to SWCD grants. During the transfer of the Division of Soil Conservation from the DNR to the ISDA, the staff was reduced from about 70 staff to the existing staff of 45.

Explanation of State Revenues: *Drainage:* The bill provides that the state is not entitled to a refund of a drainage assessment paid before January 1, 2006. Consequently, the state will not experience an increase in revenue resulting from a refund of drainage payments.

Explanation of Local Expenditures: *Drainage--Sanitary Boards and Districts:* This bill creates a second procedure for establishing fees for a specific sanitary district. Under the new procedure fees can be changed if the sanitary district board approves the fees and the fees are also approved by either the legislative bodies of each municipality in the district or established by the IURC. Currently, each legislative body must approve their own fees. Procedures used in this bill could increase or decrease fees and would be dependent on the new board's action in comparison to what each individual district would have done. The fiscal impact is indeterminable.

Under this bill the specified sanitary district is allowed to (but is not limited to) (1) sue or be sued; (2) enter into contracts; and (3) incur expenses necessary in operating a utility. The municipalities that would make up this district already have these responsibilities. This bill would transfer the responsibility from the municipalities to the specified sanitary district. The fiscal impact of this provision is indeterminable.

The bill allows an excluded city or town to withdraw from the Marion County storm water management district if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. The municipality must mail written notice 30 days before the vote on the ordinance to all owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district and the department of public works. The municipality must also mail written notice to the department 30 days after the ordinance becomes effective. If there are outstanding bonds that have been issued by the board of public works, the municipality is liable for that indebtedness in the same ratio as the assessed valuation (AV) of the property in the municipality bears to the AV of all property in the district. These provisions will result in an indeterminable increase in administrative expenses for the municipality.

However, the bill provides that a withdrawing municipality is entitled to receive an annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property tax payers within the municipality, to the extent the property taxes are not necessary to pay the municipality's share of outstanding indebtedness. Additionally, the municipality will receive the total amount of storm water user fees collected from the lots and parcels in the municipality. The bill requires these payments

to be deposited by the municipality in a dedicated fund and used only for purposes of storm water management in the municipality.

Explanation of Local Revenues: *Drainage:* Counties may experience an increase in revenues if local units determine that the state has not been assessed drainage payments in the past for which the state was liable. The impact is indeterminable.

Also, see *Explanation of Local Expenditures* above.

State Agencies Affected: DNR, INDOT, IURC; IDOA.

Local Agencies Affected: SWCDs; Counties and certain municipalities.

Information Sources: Tammy Lawson, Director of Regulatory Affairs and the Division of Soil Conservation, ISDA, (317) 233-2207; Burgess Brown, Legislative Liaison, DNR; Larry Owens, Budget Analyst, INDOT.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586; Adam Brown, 317-232-9854.